

FILED

United States Court of Appeals  
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

September 9, 2021

Christopher M. Wolpert  
Clerk of Court

WADE LAY,

Plaintiff - Appellant,

and

BRENDA E. ANDREW, et al.,

Plaintiffs,

v.

ABOUTANAA EL HABTI, Warden,  
Mabel Bassett Correctional Center, in her  
official capacity, et al.,

Defendants - Appellees.

No. 21-6101  
(D.C. No. 5:14-CV-00665-F)  
(W.D. Okla.)

ORDER

This matter is before the court on the opening of this appeal and review of the district court docket, which docket shows that—within 28 days of the district court’s entry of its entry of judgment—pro se plaintiff Wade Lay filed a document captioned *Plaintiff Wade Lay Acting Pro Se Notice of Appeal with Motion to Vacate Judgment Towards Wade Lay (Doc. No. 4) With Brief in Support*. [ECF No. 458]. The district court has yet to rule on Mr. Lay’s motion to vacate judgment, and Mr. Lay’s notice of appeal will not become effective until the district court has done so. *See* Fed. R. App. P. 4(a)(4)(B). The court notes that another group of plaintiffs has likewise filed a *Motion to*

*Amend, Alter and/or Vacate Judgment or, in the Alternative, for a Stay of Enforcement of Judgment and Brief in Support Thereof* [ECF No. 467], on which the district court has yet to rule. Accordingly, the court abates this appeal pending the district court's disposition of the motions docketed as ECF Nos. 458 and 467.

Once the district court has ruled on ECF Nos. 458 and 467: (1) the Clerk of the district court shall supplement the preliminary record as Tenth Circuit Rule 3.2(B) requires; and (2) this court will provide Mr. Lay with additional directives regarding the prosecution of this appeal.

The following preliminary deadlines remain in place:

- A. On or before October 12, 2021, Mr. Lay must enter his appearance in this appeal or cause counsel to enter an appearance on his behalf; and
- B. On or before October 12, 2021, Mr. Lay must either pay the \$505.00 appellate docketing and filing fee to the district court clerk or file with the district court an application to proceed on appeal without prepayment of fees (an "IFP application").

Failure to timely pay the fee or file the required IFP application may result in the dismissal of this appeal without further notice. *See* 10th Cir. R. 3.3(B).

Entered for the Court  
CHRISTOPHER M. WOLPERT, Clerk



by: Lisa A. Lee  
Counsel to the Clerk